

wealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands.

**(24) Unit of general local government**

The term “unit of general local government” means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

**(25) Wire transfer**

The term “wire transfer” has such meaning as the Board shall prescribe by regulations.

(Pub. L. 100-86, title VI, §602, Aug. 10, 1987, 101 Stat. 635; Pub. L. 115-174, title II, §208(a)(1), May 24, 2018, 132 Stat. 1312.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title VI of Pub. L. 100-86, Aug. 10, 1987, 101 Stat. 635, known as the Expedited Funds Availability Act, which enacted this chapter, amended section 248a of this title, and enacted provisions set out as notes under sections 248a and 4001 of this title. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

2018—Par. (20). Pub. L. 115-174, §208(a)(1)(A), inserted “, located in the United States,” after “ATM”.

Pars. (21), (23). Pub. L. 115-174, §208(a)(1)(B), (C), inserted “American Samoa, the Commonwealth of the Northern Mariana Islands, Guam,” after “Puerto Rico,”.

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-174, title II, §208(b), May 24, 2018, 132 Stat. 1313, provided that: “The amendments made by this section [amending this section and section 4002 of this title] shall take effect on the date that is 30 days after the date of enactment of this Act [May 24, 2018].”

EFFECTIVE DATE

Pub. L. 100-86, title VI, §613, Aug. 10, 1987, 101 Stat. 652, provided that:

“(a) DATE OF ENACTMENT.—Except as provided in subsection (b), this title [enacting this chapter, amending section 248a of this title, and enacting provisions set out as notes under this section and section 248a of this title] shall take effect on the date of the enactment of this title [Aug. 10, 1987].

“(b) 1 YEAR AFTER DATE OF ENACTMENT.—Sections 603, 604, 605, 606, 610, and 611 [enacting sections 4002 to 4005, 4009, and 4010 of this title] shall take effect on September 1, 1988.”

SHORT TITLE

Pub. L. 100-86, title VI, §601, Aug. 10, 1987, 101 Stat. 635, provided that: “This title [enacting this chapter, amending section 248a of this title, and enacting provisions set out as notes under this section and section 248a of this title] may be cited as the ‘Expedited Funds Availability Act’.”

SEPARABILITY

If any provision of Pub. L. 100-86 or the application thereof to any person or circumstances is held invalid, the remainder of Pub. L. 100-86 and the application of the provision to other persons not similarly situated or to other circumstances not to be affected thereby, see section 1205 of Pub. L. 100-86, set out as a note under section 226 of this title.

**§ 4002. Expedited funds availability schedules**

**(a) Next business day availability for certain deposits**

**(1) Cash deposits; wire transfers**

Except as provided in subsection (e) and in section 4003 of this title, in any case in which—

(A) any cash is deposited in an account at a receiving depository institution staffed by individuals employed by such institution, or

(B) funds are received by a depository institution by wire transfer for deposit in an account at such institution,

such cash or funds shall be available for withdrawal not later than the business day after the business day on which such cash is deposited or such funds are received for deposit.

**(2) Government checks; certain other checks**

Funds deposited in an account at a depository institution by check shall be available for withdrawal not later than the business day after the business day on which such funds are deposited in the case of—

(A) a check which—

(i) is drawn on the Treasury of the United States; and

(ii) is endorsed only by the person to whom it was issued;

(B) a check which—

(i) is drawn by a State;

(ii) is deposited in a receiving depository institution which is located in such State and is staffed by individuals employed by such institution;

(iii) is deposited with a special deposit slip which indicates it is a check drawn by a State; and

(iv) is endorsed only by the person to whom it was issued;

(C) a check which—

(i) is drawn by a unit of general local government;

(ii) is deposited in a receiving depository institution which is located in the same State as such unit of general local government and is staffed by individuals employed by such institution;

(iii) is deposited with a special deposit slip which indicates it is a check drawn by a unit of general local government; and

(iv) is endorsed only by the person to whom it was issued;

(D) the first \$200 deposited by check or checks on any one business day;

(E) a check deposited in a branch of a depository institution and drawn on the same or another branch of the same depository institution if both such branches are located in the same State or the same check processing region;

(F) a cashier’s check, certified check, teller’s check, or depository check which—

(i) is deposited in a receiving depository institution which is staffed by individuals employed by such institution;

(ii) is deposited with a special deposit slip which indicates it is a cashier’s check,

certified check, teller's check, or depository check, as the case may be; and

(iii) is endorsed only by the person to whom it was issued.

**(b) Permanent schedule**

**(1) Availability of funds deposited by local checks**

Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 4003 of this title, not more than 1 business day shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which the funds involved are available for withdrawal.

**(2) Availability of funds deposited by nonlocal checks**

Subject to paragraph (3) of this subsection, subsections (a)(2), (d), and (e) of this section, and section 4003 of this title, not more than 4 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

**(3) Time period adjustments for cash withdrawal of certain checks**

**(A) In general**

Except as provided in subparagraph (B), funds deposited in an account in a depository institution by check (other than a check described in subsection (a)(2)) shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under paragraph (1) or (2).

**(B) 5 p.m. cash availability**

Not more than \$400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than \$400) of funds deposited by one or more checks to which this paragraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under paragraph (1) or (2). If funds deposited by checks described in both paragraph (1) and paragraph (2) become available for cash withdrawal under this paragraph on the same business day, the limitation contained in this subparagraph shall apply to the aggregate amount of such funds.

**(C) \$200 availability**

Any amount available for withdrawal under this paragraph shall be in addition to the amount available under subsection (a)(2)(D).

**(4) Applicability**

This subsection shall apply with respect to funds deposited by check in an account at a depository institution on or after September 1, 1990, except that the Board may, by regulation, make this subsection or any part of this

subsection applicable earlier than September 1, 1990.

**(c) Temporary schedule**

**(1) Availability of local checks**

**(A) In general**

Subject to subparagraph (B) of this paragraph, subsections (a)(2), (d), and (e) of this section, and section 4003 of this title, not more than 2 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a local originating depository institution and the business day on which such funds are available for withdrawal.

**(B) Time period adjustment for cash withdrawal of certain checks**

**(i) In general**

Except as provided in clause (ii), funds deposited in an account in a depository institution by check drawn on a local depository institution that is not a participant in the same check clearinghouse association as the receiving depository institution (other than a check described in subsection (a)(2)) shall be available for cash withdrawal not later than the business day after the business day on which such funds otherwise are available under subparagraph (A).

**(ii) 5 p.m. cash availability**

Not more than \$400 (or the maximum amount allowable in the case of a withdrawal from an automated teller machine but not more than \$400) of funds deposited by one or more checks to which this subparagraph applies shall be available for cash withdrawal not later than 5 o'clock post meridian of the business day on which such funds are available under subparagraph (A).

**(iii) \$200 availability**

Any amount available for withdrawal under this subparagraph shall be in addition to the amount available under subsection (a)(2)(D).

**(2) Availability of nonlocal checks**

Subject to subsections (a)(2), (d), and (e) of this section and section 4003 of this title, not more than 6 business days shall intervene between the business day on which funds are deposited in an account at a depository institution by a check drawn on a nonlocal originating depository institution and the business day on which such funds are available for withdrawal.

**(3) Applicability**

This subsection shall apply with respect to funds deposited by check in an account at a depository institution after August 31, 1988, and before September 1, 1990, except as may be otherwise provided under subsection (b)(4).

**(d) Time period adjustments**

**(1) Reduction generally**

Notwithstanding any other provision of law, the Board, jointly with the Director of the Bu-

reau of Consumer Financial Protection, shall, by regulation, reduce the time periods established under subsections (b), (c), and (e) to as short a time as possible and equal to the period of time achievable under the improved check clearing system for a receiving depository institution to reasonably expect to learn of the nonpayment of most items for each category of checks.

**(2) Extension for certain deposits in noncontiguous States or territories**

Notwithstanding any other provision of law, any time period established under subsection (b), (c), or (e) shall be extended by 1 business day in the case of any deposit which is both—

(A) deposited in an account at a depository institution which is located in Alaska, Hawaii, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands; and

(B) deposited by a check drawn on an originating depository institution which is not located in the same State, commonwealth, or territory as the receiving depository institution.

**(e) Deposits at ATM**

**(1) Nonproprietary ATM**

**(A) In general**

Not more than 4 business days shall intervene between the business day a deposit described in subparagraph (B) is made at a nonproprietary automated teller machine (for deposit in an account at a depository institution) and the business day on which funds from such deposit are available for withdrawal.

**(B) Deposits described in this paragraph<sup>1</sup>**

A deposit is described in this subparagraph if it is—

- (i) a cash deposit;
- (ii) a deposit made by a check described in subsection (a)(2);
- (iii) a deposit made by a check drawn on a local originating depository institution (other than a check described in subsection (a)(2)); or
- (iv) a deposit made by a check drawn on a nonlocal originating depository institution (other than a check described in subsection (a)(2)).

**(2) Proprietary ATM—temporary and permanent schedules**

The provisions of subsections (a), (b), and (c) shall apply with respect to any funds deposited at a proprietary automated teller machine for deposit in an account at a depository institution.

**(3) Study and report on ATM's**

The Board shall, either directly or through the Consumer Advisory Council, establish and maintain a dialogue with depository institutions and their suppliers on the computer software and hardware available for use by automated teller machines, and shall, not later than September 1 of each of the first 3 cal-

endar years beginning after August 10, 1987, report to the Congress regarding such software and hardware and regarding the potential for improving the processing of automated teller machine deposits.

**(f) Check return; notice of nonpayment**

No provision of this section shall be construed as requiring that, with respect to all checks deposited in a receiving depository institution—

(1) such checks be physically returned to such depository institution; or

(2) any notice of nonpayment of any such check be given to such depository institution within the times set forth in subsection (a), (b), (c), or (e) or in the regulations issued under any such subsection.

(Pub. L. 100–86, title VI, § 603, Aug. 10, 1987, 101 Stat. 637; Pub. L. 101–625, title X, § 1001, Nov. 28, 1990, 104 Stat. 4424; Pub. L. 102–242, title II, § 227(a), (b)(1), Dec. 19, 1991, 105 Stat. 2307; Pub. L. 111–203, title X, § 1086(a), (e), July 21, 2010, 124 Stat. 2085, 2086; Pub. L. 115–174, title II, § 208(a)(2), May 24, 2018, 132 Stat. 1312.)

AMENDMENTS

2018—Subsec. (d)(2)(A). Pub. L. 115–174 inserted “American Samoa, the Commonwealth of the Northern Mariana Islands, Guam,” after “Puerto Rico,”.

2010—Subsec. (a)(2)(D). Pub. L. 111–203, § 1086(e)(1), substituted “\$200” for “\$100”.

Subsecs. (b)(3)(C), (c)(1)(B)(iii). Pub. L. 111–203, § 1086(e)(2), (3), substituted “\$200” for “\$100” in heading.

Subsec. (d)(1). Pub. L. 111–203, § 1086(a), inserted “, jointly with the Director of the Bureau of Consumer Financial Protection,” after “Board”.

1991—Subsec. (e)(1). Pub. L. 102–242, § 227(b)(1)(A), struck out “—temporary schedule” after “ATM” in heading.

Subsec. (e)(1)(C). Pub. L. 102–242, § 227(a), struck out subpar. (C) which read as follows: “This paragraph shall apply with respect to funds deposited at a nonproprietary automated teller machine after August 31, 1988, and prior to the expiration of the 2-year period beginning on November 28, 1990.”

Subsec. (e)(2) to (4). Pub. L. 102–242, § 227(a), (b)(1)(B), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which related to permanent schedule for funds deposited at nonproprietary automated teller machines.

1990—Subsec. (e)(1)(A). Pub. L. 101–625, § 1001(1), substituted “4” for “6”.

Subsec. (e)(1)(C). Pub. L. 101–625, § 1001(2), substituted “prior to the expiration of the 2-year period beginning on November 28, 1990” for “before September 1, 1990”.

Subsec. (e)(2)(D). Pub. L. 101–625, § 1001(3), substituted “the expiration of the 2-year period beginning on November 28, 1990” for “September 1, 1990”.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–174 effective 30 days after May 24, 2018, see section 208(b) of Pub. L. 115–174, set out as a note under section 4001 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the designated transfer date, see section 1100H of Pub. L. 111–203, set out as a note under section 552a of Title 5, Government Organization and Employees.

EFFECTIVE DATE

Section effective Sept. 1, 1988, see section 613(b) of Pub. L. 100–86, set out as a note under section 4001 of this title.

<sup>1</sup> So in original. Probably should be “subparagraph”.

**§ 4003. Safeguard exceptions****(a) New accounts**

Notwithstanding section 4002 of this title, in the case of any account established at a depository institution by a new depositor, the following provisions shall apply with respect to any deposit in such account during the 30-day period (or such shorter period as the Board, jointly with the Director of the Bureau of Consumer Financial Protection, may establish) beginning on the date such account is established—

**(1) Next business day availability of cash and certain items**

Except as provided in paragraph (3), in the case of—

- (A) any cash deposited in such account;
- (B) any funds received by such depository institution by wire transfer for deposit in such account;
- (C) any funds deposited in such account by cashier's check, certified check, teller's check, depository check, or traveler's check; and
- (D) any funds deposited by a government check which is described in subparagraph (A), (B), or (C) of section 4002(a)(2) of this title,

such cash or funds shall be available for withdrawal on the business day after the business day on which such cash or funds are deposited or, in the case of a wire transfer, on the business day after the business day on which such funds are received for deposit.

**(2) Availability of other items**

In the case of any funds deposited in such account by a check (other than a check described in subparagraph (C) or (D) of paragraph (1)), the availability for withdrawal of such funds shall not be subject to the provisions of section 4002(b), 4002(c), or paragraphs<sup>1</sup> (1) of section 4002(e) of this title.

**(3) Limitation relating to certain checks in excess of \$5,000**

In the case of funds deposited in such account during such period by checks described in subparagraph (C) or (D) of paragraph (1) the aggregate amount of which exceeds \$5,000—

- (A) paragraph (1) shall apply only with respect to the first \$5,000 of such aggregate amount; and
- (B) not more than 8 business days shall intervene between the business day on which any such funds are deposited and the business day on which such excess amount shall be available for withdrawal.

**(b) Large or redeposited checks; repeated overdrafts**

The Board, jointly with the Director of the Bureau of Consumer Financial Protection, may, by regulation, establish reasonable exceptions to any time limitation established under subsection (a)(2), (b), (c), or (e) of section 4002 of this title for—

- (1) the amount of deposits by one or more checks that exceeds the amount of \$5,000 in any one day;

(2) checks that have been returned unpaid and redeposited; and

(3) deposit accounts which have been overdrawn repeatedly.

**(c) Reasonable cause exception****(1) In general**

In accordance with regulations which the Board, jointly with the Director of the Bureau of Consumer Financial Protection, shall prescribe, subsections (a)(2), (b), (c), and (e) of section 4002 of this title shall not apply with respect to any check deposited in an account at a depository institution if the receiving depository institution has reasonable cause to believe that the check is uncollectible from the originating depository institution. For purposes of the preceding sentence, reasonable cause to believe requires the existence of facts which would cause a well-grounded belief in the mind of a reasonable person. Such reasons shall be included in the notice required under subsection (f).

**(2) Basis for determination**

No determination under this subsection may be based on any class of checks or persons.

**(3) Overdraft fees**

If the receiving depository institution determines that a check deposited in an account is a check described in paragraph (1), the receiving depository institution shall not assess any fee for any subsequent overdraft with respect to such account, if—

- (A) the depositor was not provided with the written notice required under subsection (f) (with respect to such determination) at the time the deposit was made;
- (B) the overdraft would not have occurred but for the fact that the funds so deposited are not available; and
- (C) the amount of the check is collected from the originating depository institution.

**(4) Compliance**

Each agency referred to in section 4009(a) of this title shall monitor compliance with the requirements of this subsection in each regular examination of a depository institution and shall describe in each report to the Congress the extent to which this subsection is being complied with. For the purpose of this paragraph, each depository institution shall retain a record of each notice provided under subsection (f) as a result of the application of this subsection.

**(d) Emergency conditions**

Subject to such regulations as the Board, jointly with the Director of the Bureau of Consumer Financial Protection, may prescribe, subsections (a)(2), (b), (c), and (e) of section 4002 of this title shall not apply to funds deposited by check in any receiving depository institution in the case of—

- (1) any interruption of communication facilities;
- (2) suspension of payments by another depository institution;
- (3) any war; or
- (4) any emergency condition beyond the control of the receiving depository institution,

<sup>1</sup> So in original. Probably should be "paragraph".